

response to the analyzed characteristic.--

33 ~~32~~-62. A system as in claim ~~61~~³²⁻³¹ wherein the characteristic pertains to tempo.--

34 ~~33~~-63. A system as in claim ~~46~~⁴⁷ which includes a media write unit, coupled to the processor, for writing items identified in a selected play list to a removable medium for subsequent playback.--

35 ~~34~~-64. A system as in claim ~~51~~²²⁻²¹ wherein the media items comprise at least one of audio works and video works.--

36 ~~35~~-65. A system as in claim ~~51~~²²⁻²¹ wherein the use terminal accumulates item play information for billing purposes.--

37 ~~36~~-66. A system as in claim ~~51~~²²⁻²¹ which includes a supervisory processor couplable to the user terminal by the communications link, wherein the supervisory processor, in response to information from the user terminal, produces item play related reports.--

38 ~~37~~-67. A system as in claim ~~39~~¹⁰ wherein the inventory station produces reports in response to billing information from the first processor.--

R E M A R K S

The Applicants have given careful consideration to the comments of the Examiner set forth in the Office Action. A number of clarifying amendments have been made to pending claims 30, 33 and 35. In addition, several new claims 38 through 67 have been added hereby. For the following reasons, all of the pending claims are allowable over the prior art of record.

In one aspect, an apparatus which embodies Applicants' invention provides heretofore unavailable functionality to a user wishing to create and execute play lists without having to maintain a local inventory of all of the items in the play list or lists. The downloaded inventory items in the list or lists can be played or viewed on arrival. This system is particularly advantageous and cost effective to users in that the users in effect buy a "view" (video media) or buy a "listen" (audio media) and do not receive physical object such as a tape or a disc. Instead, the user typically can view or listen to the items on the play list without having to go to the expense of owning same.

Systems of the type described above and claimed herein provide additional

benefits to the user as well as to the supplier of the inventory items. For example, the user's terminal can keep track of billing information such as number of plays and total play time for billing purposes. This information can be transmitted via the communications link to the source of the inventory whereupon the user can then be invoiced. Alternately, the user's terminal can provide related parameters such as for example beats per minute in connection with audio items to thereby enable the automatic synchronization of two songs on the "beat".

In yet another claimed system, the user can download one or more media items and write same onto a CD or magnetic tape thereby creating a custom CD or custom video tape for use subsequently. In this case, unlike the above claimed system, the user is in effect "buying" a copy of the video or audio of interest.

In yet another aspect, the user's terminal incorporates a convenient to use editing system for the purpose of modifying or creating new play lists. The play list can be retrieved and an additional item inserted into the middle of it thereby creating an elongated or enlarged play list. Alternately, items can be deleted from the list, the list restored and executed or played subsequently. The added items could be located at a displaced processor to be downloaded.

In the Office Action, the Examiner cited Geddes US Patent 4,647,689 entitled Video Cassettes Selection Machine. As described below, Geddes is very different from and does not make obvious the claimed apparatus. Geddes in effect discloses and describes a video juke box based on having a plurality of video cassettes stored with a cassette player and feeder mechanism.

With respect to Fig. 1 thereof, a coin unit 5 is provided for establishing a user credit. Customer selection is carried out by a customer selector 2. Selector 2 includes a:

"title board 3 which identifies the program material that has been pre-recorded onto each of the individual cassettes located in the cassette library. This board further supplies a selection ordinate 8 that is used as input 2 the cassette ordinate selector 4, a set of pushbuttons located in the customer selector 2." (Col. 2, ll. 41 through 46).

Thus, Geddes presents to the user a preprinted list of available video

inventory, see also "Title Board" 13 of Fig. 2. A keyboard is provided for selecting items to be viewed. In response to depositing coins into coin unit 5 or 11:

"the system control unit lights a lamp that informs the customer to 'make selection'." (Col. 2, ll. 62-64).

In Geddes system, one or more users can enter a plurality of video tape designations in selector memory 14. As each video tape is completed, the next item in the memory is executed.

Geddes is based on pre-paying via the provided coin mechanism. Hence, there is no need for, nor, any teaching of collecting billing information as claimed herein. In addition, Geddes is completely silent on providing media related parameters for the user.

We also note that Geddes merely enables a user to include additional entries to an existing list or create a new list with several entries. However, there is no provision whatsoever nor any suggestion or teaching of an editor to edit an existing list or to create and store multiple independent lists for later execution. This is made clear by the following discussion and explanation in Geddes:

"The function of the selector memory is to store, in selected random order, input selection ordinates received from the selector 12, and to dispense these input ordinates to the system control memory as they are required by the system control 10 to provide additional playback of [sic] cassette. This process continues until all selections stored in memory have been processed." (Col. 3, l. 62 through Col. 4, l. 1)

Geddes thus utilizes a selection process typical of those used in audio juke boxes for many years. Coins are inserted and a user can select a prepaid number of items to be played. No changes are permitted in the selected group of media items. When the next coin or coins are deposited, the latest selected items are added to the end of the previous list if the list has not been completely executed. As discussed above, this is quite unlike the claimed apparatus.

In the Office Action, the Examiner stated:

"With respect to independent claim 30, Geddes discloses 'a graphical display' ('the currency monitor by which the machine control system determines ...' -- Col. 2, l. 53) (Page 2 of Office Action).

Col. 2, line 54, of Geddes includes the following sentence:

"The coin unit 5 is the currency monitor by which the machine control system determines that the proper amount of compensation has been made for each selection desired." (Col. 2, ll. 54-57)

The above sentence read in view of Fig. 1 of Geddes makes it clear that "currency monitor" refers to the process of keeping track of deposited coins and has nothing whatsoever to do with graphical displays. Hence, the Examiner's statement in the Office Action is not technically correct and cannot be the basis of a proper obviousness rejection.

The Examiner subsequently referred to "an automatic coin operated video cassette library retrieval and playback system for user controlled retrieval and playback of pre-recorded video cassettes ... " -- Col. 9, line 14)" in part as a basis for arguing that selected phraseology of pending claim 30 was disclosed in Geddes. The Examiner, however, quoted a portion of a preamble of claim 1 of Geddes which does not relate to limitations which are included in pending claim 30 "wherein some of the instructions present on part of the display at least a part of a media inventory listing of at least a stored audio items from which a user can select a plurality of items to be presented".

Geddes, as described previously, utilizes a pre-printed title board 3 and nothing more to identify the inventory of available cassettes. The printed listing 3, the title board, has nothing whatsoever to do with executable instructions of Geddes processor.

Unlike the Examiner's comments in mid-section of page 3 of the Office Action, Geddes does not include instructions enabling the use to save the modified play list and to designate a different named, play list to be displayed for and edited by the user" as claimed (ll. 9-10 from bottom of page 3 of Office Action).

As described above, Geddes merely permits a user to add onto an existing list,

if the existing list has not been completely played out or to create a new list, the existing list is empty. That is not what is claimed.

The Examiner then went on at the bottom of page 3 to come to a conclusion of obviousness by stating several reasons, extending onto page 4, none of which have been supported by reference to any suggestion or teaching in Geddes to modify Geddes in accordance with the Examiner's obviousness conclusion. Rather, this is a matter of hindsight reconstruction wherein only the present application discloses or teaches the claimed apparatus. Absent the availability of the present application, there is nothing whatsoever in Geddes which would suggest making the modifications referred to by Examiner, last four lines of page 3, first four lines of page 4, of the Office Action.

None of the other prior art of record makes up for the deficiencies of Geddes. Hence, for all of the above reasons, the pending claims are allowable, and allowance is respectfully requested.

Additionally, Applicants had previously submitted an Information Disclosure Statement which was received by the Patent Office June 1, 1998. That Disclosure Statement was apparently not made of record in the parent hereto.

The Examiner, in response to Applicants' inquiry, confirmed receipt of the Information Disclosure Statement and consideration of the documents enclosed therewith in a telephone message.

Respectfully submitted,

BY



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